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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Cuba, prepared by the Special Rapporteur, Mr. Carl-Johan Groth, in accordance with Commission resolution 1994/71

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I. INTRODUCTION

1. At its fiftieth session, the Commission on Human Rights adopted resolution 1994/71, entitled "Situation of human rights in Cuba", on 9 March 1994. 1/ In that resolution, the Commission decided to extend for another year the mandate conferred on the Special Rapporteur under resolution 1992/61 of 3 March 1992, 2/ whereby Mr. Carl-Johan Groth had been appointed Special Rapporteur.

2. In resolution 1994/71, approved by the Economic and Social Council in its decision 1994/261 of 22 July 1994, the Special Rapporteur was requested to report to the Commission at its fifty-first session and to submit an interim report to the General Assembly at its forty-ninth session (A/49/544). The General Assembly adopted resolution 49/200, dated 23 December 1994.

3. The present report is an up-date of the interim report, to which information has been added on individual cases brought to the attention of the Special Rapporteur between October and December 1994.

4. In resolution 1994/71, the Commission also requested the Special Rapporteur to maintain direct contact with the Government and citizens of Cuba. It expressed particular concern that the Cuban Government had failed to carry out its commitment, common to all Member States, to cooperate with the Commission on Human Rights, in conformity with Articles 55 and 56 of the Charter of the United Nations, and it called upon the Government to permit the Special Rapporteur the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba.

5. On 10 August 1994, pursuant to his mandate, the Special Rapporteur addressed a letter to the Permanent Representative of Cuba to the United Nations Office at Geneva requesting the collaboration of the Cuban Government in accomplishing his mandate and an opportunity to visit the country. To date, there has been no answer to this letter.

6. Also pursuant to his mandate, the Special Rapporteur tried to obtain information from a wide variety of sources, and expressed his willingness to receive any person or group wishing to meet with him. For that purpose, and bearing in mind that most of the sources of information on the situation of human rights in Cuba are in the United States of America, he travelled to New York and Washington, D.C., from 29 August to 2 September 1994, where he had the opportunity to meet with individuals and representatives of the following organizations and groups: the Cuban Committee for Human Rights, the Committee to Support the Human Rights Movement in Cuba, the Cuban Women's Foundation, Human Rights in Cuba, Cuban Change, the Democratic Confederation of Workers, Freedom House, the Cuban Worker's Trade Union, Americas Watch, Areito Review, the Cuban-American Committee for Peace, the World Federation of Cuban Political Prisoners, the Cuban Committee against the Blockade, the Puerto Rican Group against the Blockade, the American Institute for Free Labor Development, the Foundation for the Defence of Family Values, the InterFaith Foundation for Community Organizations, the House of the Americas and the American Association of Jurists. The Special Rapporteur received written material - in addition to that received from the above-mentioned sources - from such sources as the Information Bureau of the Cuban Human

Rights Movement, the Foundation for Human Rights in Cuba, the Christian Democrat Movement and Amnesty International, as well as many private communications sent to the Special Rapporteur from Cuba and abroad. The situation of human rights in Cuba reflected in this report is therefore based primarily on information from these sources.

II. CIVIL AND POLITICAL RIGHTS

A. The right to freedom of expression and association

7. As pointed out in earlier reports, the major problems with respect to civil and political rights can be attributed to discrimination on political grounds and to the lack of freedom of expression and association. The information available to the Special Rapporteur indicates that since the publication of the last report there has been no change in the practice of the authorities in this regard or in the constitutional and penal provisions on which this practice is based. 3/ Persons who peacefully manifest their disagreement with Government policy, either as individuals or in groups which have sprung up spontaneously to defend human rights, including trade union rights, or who engage in political activity, continue to be subject to harassment, accusations, disciplinary measures and prison sentences. Although these groups are determined to use only peaceful means to proclaim their grievances, the authorities consider their activities to be unlawful and they are persecuted in various ways. 4/ Information available to the Special Rapporteur indicates that there are more than 100 such groups throughout the country. As a result of severe pressure exerted on them and their families by the State apparatus, their membership has declined and the scope of their action is limited. Moreover, this restraint, in conjunction with the current severe economic crisis, is forcing many members to leave the country by legal or illegal means.

8. The penal terminology most frequently used to label the activities of such persons as crimes include, inter alia, enemy propaganda, contempt, unlawful association, possession of illegal printed matters and resistance. The Special Rapporteur also has received information to the effect that persons arrested on ideological grounds have been accused of economic crimes such as possessing items acquired on the black market; however, the economic situation in the country is such that at some point nearly the entire population feels compelled to turn to the black market for basic necessities, a fact known to the authorities. 5/ One example of this practice is the case of Elizardo Sánchez Santacruz, the President of the Cuban Commission for Human Rights and National Reconciliation, who was sentenced in July 1994 to six months of house arrest because he allegedly possessed a supply of fuel exceeding the legal limit.

9. As far as the Special Rapporteur has been able to ascertain, the authorities do not provide figures on the number of persons serving sentences for politically related crimes. A partial list prepared by non-governmental groups in the country in November 1994 and sent to the Special Rapporteur contains 1,195 names. With a few exceptions, this list does not include the names of persons sentenced for antisocial behaviour or because they attempted to leave the country illegally. The authorities have also continued the

practice of releasing some of these persons before they have served their full time, on the condition that they leave the country. These are persons on whose behalf foreign Governments or institutions interceded as mediators with the Cuban Government. Some of them rejected the offer and are still in prison.

10. The following persons are among those prosecuted in 1993 or 1994:

(a) Jose Angel Carrasco Velar was sentenced in January 1993 to seven years in prison for the crime of enemy propaganda because he helped to prepare news-letters critical of the country's leaders and made critical remarks to foreign journalists.

(b) Juan Carlos Castillo Pasto was arrested in Santiago de Cuba early in 1993 and accused of enemy propaganda for hanging posters and writing anti-Government slogans on walls. He was subsequently sentenced to eight years in prison by the State security offences division of the Santiago de Cuba People's Provincial Court.

(c) Guillermo Fernández Donate, a member of the Socialist Democratic Movement and of the Cuban Committee for Human Rights, was arrested in June 1993 and later sentenced to four years in prison on grounds of spreading enemy propaganda. Early in 1993 he and his wife reportedly were dismissed from their jobs. 6/

(d) Augustín Jesús Lastre Barroso was sentenced to nine years' imprisonment for the crime of enemy propaganda in a trial held on 24 September 1993 in the State security offences division of the People's Provincial Court of Camagüey. Specifically, he was accused of reporting human rights violations by telephone and in radio broadcasts to the outside world.

(e) Roberto Rodríguez Hernández was arrested at Holguín in 1993 for painting anti-Government slogans on a wall and was moved to police headquarters where he reportedly was beaten. He was subsequently sentenced to four years' imprisonment for disseminating enemy propaganda.

(f) Luis Gustavo Domínguez Gutiérrez, 7/ aged 41, from the Peace, Progress and Freedom group, was accused of contempt and enemy propaganda in case No. 42 of 1993 and sentenced to seven years' imprisonment. He is serving his sentence in Kilo 7 prison in Camagüey and his state of health is a matter of concern.

(g) Luis Alberto Coizeau Rizo was summoned to a police station in Santiago de Cuba on 23 March 1993 and later taken to Versalles, headquarters of the State Security Department. Under heavy questioning, he allegedly confessed to having written graffiti and distributed anti-Government fliers, together with his brother, Leonardo Coizeau Rizo, who was arrested on 3 April 1993 and transferred to Versalles. On 9 July 1993, they were tried for the offence of enemy propaganda by the chamber for offences against State security of the Provincial Court of Santiago de Cuba and sentenced to three years' imprisonment.

(h) Three human rights activists from Isla de Pinos were sentenced early in 1994 to prison terms for allegedly disseminating enemy propaganda: Antonio Morales Zoa and Eriberto Acevedo Vázquez received three-year terms and Nidia Ramírez Alvarez (the wife of Mr. Morales Zoa), received a term of one and one-half years.

(i) Rodolfo González González, a member of the Cuban Committee for Human Rights, was arrested on 10 December 1992 for furnishing anti-Government information to the foreign media. In March 1994 he was sentenced to seven years in prison on the charge of spreading enemy propaganda. It was reported that the authorities offered to stay his sentence if he would leave the country, but that he refused. According to the information received, during three months of detention at Villa Marista before he was moved to prison, he was kept in a sealed cell and had to sleep on a metal sheet under a fluorescent light that burned 24 hours a day. On 7 November 1994, he was transferred to Combinado del Sur de Matanzas prison, where he was held in solitary confinement in a cell in the punishment wing, which was flooded with water every day, without any possibility of going out to the yard or receiving medical assistance. On 2 December 1994, he was transferred again, this time to Aguica prison, Matanzas, where he was also held in a punishment cell.

(j) Ruben de Jésus Aloma Aday, aged 20, was sentenced to one year in prison in June 1994 for shouting slogans against the regime and slandering and insulting its leaders at a demonstration protesting the death of a youth, Luis Quevedo Remolina, in the municipality of Regla on 14 October 1993. 8/ Aramís Hurtado and Joel Sierra were sentenced to one year in prison and Jesús Barthelemí Suárez and Felipe Fernández, to one and one-half years, in connection with the same events.

(k) Domiciano Torres Roca, 9/ a former professor of architecture and Vice-President of the Democratic Civic Party, was dismissed in 1992, together with other professors, from his post at the Armando Mestre School of Technology in Guanabacoa for his criticism of Government policy. After he and other members of his group received threats by officials from the State Security Department, he was arrested in Havana on 13 August 1993. The police searched his home and confiscated a set of documents which were described as "enemy propaganda". On 13 July 1994, he was tried and later sentenced to three years' imprisonment. In September 1994, he was transferred from the prison known as El Pitirre in San Miguel del Padrón, Havana, to Kilo 7 maximum security prison in Camagüey.

(l) Ileana Curra Luzón, Vice-President of the Nationalist Agenda Movement, was arrested on 14 November 1994 in Cerro district, Havana, by State security agents and taken to the police stations in Cerro, Décima Unidad de Acosta and San Mariano in Diez de Octubre district and then to the Villa Marista detention centre. According to reports, Mrs. Curra Luzón had a suspended sentence of three years' imprisonment for enemy propaganda after she filed an appeal that finally resulted in the sentence being upheld. She is serving the sentence in Prisión Occidental de Mujeres.

11. The Special Rapporteur also was told about the following cases involving persons who, as this report went to press, were being held in custody pending trial:

(a) Raúl Dimas González Cuellar, Vice-President of the Pacifist Solidarity and Peace Movement, was arrested in Havana on 26 January 1994. He was held for questioning in the Villa Marista security police station until 14 March when he was moved to the Guanajay prison, accused of carrying weapons and being in possession of explosives. However, the reports by the security agents who searched his house made no mention of weapons or explosives.

(b) Francisco Chaviano González, President of the National Council for Civil Rights in Cuba, was detained by agents of Havana State Security Police on 7 May 1994. The agents entered his home shortly after an unknown person gave him documents detailing human rights violations. The agents also seized National Council documents, including information on persons who had disappeared at sea while attempting to leave the country. He was brought to the Villa Marista police headquarters where he was accused of divulging secret information about State security. Mr. Chaviano previously had repeatedly been subjected to intimidation.

(c) Walter Arenas Musa, aged 41, resident of Güines, Havana province, was arrested on 14 September 1994 on charges of unlawful association and activities against Government institutions, which were the terms used to describe his participation in a Miami radio programme devoted primarily to exchanges of family and humanitarian messages between persons living in Cuba and in the United States. According to the information received, the charges brought initially were withdrawn for lack of evidence and replaced by possession of food items allegedly obtained on the black market, such as tomato paste.

(d) Marta María Vega Cabrera, aged 30, member of the Democratic Civic Association in Isla de Pinos, was arrested on 3 June 1994 on charges of enemy propaganda. In July, she was transferred to Women's Western Prison, where she was allegedly beaten and detained incommunicado in a sealed cell for several months after being accused of painting anti-Government slogans. She had also been arrested in 1990 and served a sentence of two years' imprisonment.

12. The Special Rapporteur continued to receive information concerning incidents involving persons subjected to harassment, "acts of repudiation" on the part of so-called "rapid-response brigades", temporary detention, loss of employment or other reprisals by the security apparatus, and for ideological reasons. In 1994, such incidents included the public protest in Havana on 5 August which, according to the information received, led to some 300 arrests.

13. According to newspaper reports, in early September, the initial trials of persons arrested in the disturbances of 5 August were held at San Miguel de Padrón. At one of those trials, 11 persons, mostly youths between 18 and 25 years old, were accused of "creating a public disturbance". Four of them were sentenced to one year in prison, two, to eight months and two, to six months, while three were acquitted. The court presumably established

that the accused had been proven guilty of participating in the aforementioned disturbances, during which a large group of persons began shouting insulting epithets directed at various Government leaders. Furthermore, the court based its guilty verdict on the fact that the accused had been arrested where the events had occurred but had no reason to be there, and on who they were, i.e., mostly young social misfits. 10/ Other reports received by the Special Rapporteur indicate that, in mid-September, more than 160 of the persons arrested in the events of 5 August were transferred to Kilo 7 maximum security prison in Camagüey.

14. A number of persons belonging to human rights groups reportedly were arrested during the days following the disturbances even though they had not participated in the protest. They included, for example, Gustavo Cano Escobar, President of the Cuban Democratic Movement; Nelson Torres Pulido, President of the Cuban Human Rights Party; María Valdés Rosado, President, and Jesús Rafael Castillo Hernández, Vice-President, of the Cuban Christian Democratic Movement; Aida Rosa Jiménez, President of the Democratic Civic Party, who was also detained for two days in July; Alberto Rodríguez García, Jesús Faisel Iglesias and René Gomez Manzano of the National Council for Civil Rights in Cuba; René del Pozo Pozo and Gerardo Valdés of the Coordinating Body for Human Rights Organizations in Cuba; Sara Franco Lemón of the Confederation of Democratic Workers; and Fernando Velázquez Medina, who recently was released after spending two years in prison because he and his wife, Xiomara González, had ties to the group known as the Alternative Way.

15. Other examples of persons recently subjected to harassment follow:

(a) Jesús Yanes Pelletier, 77 years of age, Vice-President of the Cuban Committee for Human Rights, was assaulted in the street on 7 August 1994 by persons suspected of acting at the instigation of the security forces. On 16 June 1994 he had been arrested, taken to the police station on Calle L and the Malecón and threatened; on 21 June, he was again arrested and taken to Villa Marista for interrogation.

(b) Angela Herrera, President of the Cuban Democratic Coalition, and her daughter, Guillermina de la Caridad Acuña Herrera, member of the Movimiento Maceista por la Dignidad (Torch-bearers for Dignity) in Havana, were the targets of repeated threats, harassment, house searches and brief detentions for the activities in publicizing Cuban human rights violations in foreign countries. In the course of 1994, Mrs. Herrera left the country.

(c) Belkis Lima Pérez and Eduardo Lima Pérez, members of the Cuban Civic Movement, were subjected to an "act of repudiation" by "rapid-response brigades" in their home in the Alamar neighbourhood of Havana on 12 April 1994, in the course of which a family member was wounded.

(d) Jorge Omar Lorenzo Pimienta, Mario Rodríguez Castellón, Abilio Ramos Moya and Terina Fernández González, members of the National Council for Civil Rights in Cuba, had their homes searched by the police in early May 1994, in connection with the arrest of the Council President (Francisco Chaviano González). The police also confiscated documents belonging to the Council; and Mr. Lorenzo Pimienta was again detained for several days in early August 1994.

(e) Ignacio Hidalgo Gómez, a delegate from Holguín to the Cuban Committee for Human Rights, was arrested on 14 August 1993 and taken to the State Security Department, where he remained for several hours during which he was forced to sign a record of warning. On 10 December 1993, he was again arrested and held more than 12 hours on the premises of the Ministry of the Interior. On 10 March 1994, he was taken to the third police precinct where he was held for 11 hours; in addition, on 21 April 1994, he was threatened by the head of the police sector and the chairman of his neighbourhood Committee for the Defence of the Revolution, who came to see him in his home.

(f) Eugenio Rodríguez Chaple, President of the Democratic Civic Front, his wife Lázara Herrera Portelles and his two sons were subjected on 12 February 1994 to an "act of repudiation" by a group of about 30 people who broke into their home in Havana, beat them and damaged their property. The attack lasted about half an hour, without the police putting in an appearance. When later Mr. Chaple went to the police station to complain, the police retorted in hostile tones that this kind of incident did not occur in Cuba and it was therefore impossible for them to bring charges. 11/

16. The Special Rapporteur also received reports that the following 51 human rights activists and opponents were allegedly subjected to police harassment in the form of threats, temporary detention, questioning, etc. in September and October 1994: Alberto Perera Martínez, Sergio Alberto Yanes Martínez, Migdalia Rosado Hernández, Ernesto Elías González Londres, Leonardo Calvo Cárdenas, Félix Bonne Carcasés, Moisés Rodríguez Quesada, Dimas Cecilio Castellanos, Luis Díaz, Jorge Bacallao Ferrer, Lázaro Loretto Perea, Antonio Pupo Cáceres, Elisardo Sánchez, Beatriz García Alvarez, Reinaldo Ciere Alfaro, Veraldo Muñoz Villafuerte, Pedro Herrada, Pedro Pablo Guzmán, Luis Orlando Padilla Font, Oscar Cruz, Ileana López Valdés, Cristian Pérez, Mérida Pérez Fuentes, Héctor Castro Marrero, Elisardo Sanpedro Marín, Aida Valdés Santana, Odilia Collazo, Abel Acosta Meneiro, Caridad Falcón Vento, Ileana Estrugo Pomares, Angel Pla González, Antonio Durán, Fernando Sánchez López, Juan Manuel Rico, Manuel Gutiérrez, Ernesto Ibar Alonso, Luis Enrique Solana Hernández, Héctor Palacios Ruiz, Mercedes Ruiz, Ramón Roque, Pastor Herrera Macurán, Oscar Castillo, Ramón Ruiz, Héctor Maceda, Juan Fajardo González, Ciro Mújica Calderín, Ernesto Cabrera González, Jorge Enrique Pozo Cornilló and Isabel del Pino, Rolando Martínez Montoya and Jose Antonio Reyes Reyes.

17. In his report to the fiftieth session of the Commission on Human Rights, the Special Rapporteur referred to cases similar to those mentioned above and the practices that can be deduced from them and to the excessive control being exerted for ideological reasons over the day-to-day life of every individual through the learning centres, for example, or the workplace, down to the neighbourhoods, with their Committees for the Defence of the Revolution. In the workplace, for instance, "reliability" is a key factor in judging the "fitness" of each worker and reliability covers political orientation, as well as loyalty to management at the workplace and to the Government, or the Party, and willingness to perform the services they require. Investigations, the results of which are confirmed by the Committees for the Defence of the Revolution or the Department of Technical Investigations or the opinions of the Party cell in each workplace, are decisive in assessing reliability. If

it is decided that a worker is not trustworthy, he is dismissed from his job, post, company, etc., without regard for experience, years of service or any other qualifications. Furthermore, a ruling of unreliability cannot be appealed to the labour tribunals.

18. Of relevance in this connection are the comments of the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organisation, which considered the question of discrimination in the fields of labour and education in connection with Convention No. 111 concerning Discrimination in respect of Employment and Occupation, ratified by Cuba in 1965. The subject was considered in response to a charge that 14 university professors had been dismissed in January 1992. 12/ In its 1994 report, the Committee states:

> "Resolution No. 590 of 4 December 1986, which adopts and gives effect to the rules of procedure for the inspection system of the Ministry of Education, establishes that the results, goals and methods of inspection must always be considered from the viewpoint of the Communist Party of Cuba (art. 2) and evaluated in the light of political, ideological and scientific factors (art. 8). The Committee felt that such criteria could give rise to discrimination based on political opinion: (i) in the education of students; (ii) in the evaluation of teachers whose performance was under review; and (iii) in the conditions of employment and evaluation of the work of the inspectors themselves.
>
> "Moreover, Decree-Law No. 34 of 12 March 1980 is based on the idea that 'persons involved in the process of educating children and young people constitute a model for the development of the Communist personality'; in pursuance of the law, it is justified to dismiss from their posts members of the faculty of schools and institutions of higher learning, as well as the staff of educational institutions dealing directly with students, on grounds, inter alia, of 'committing serious and egregious acts contrary to socialist morality and the ideological principles of our society'. This law has been applied to technical personnel, professors, teachers, administrative or service personnel and technical personnel in the education field ... In previous commentaries, the Committee took note of the Government's intention to amend those texts and in its last report it takes note of the Government's intention to do so when appropriate and to make the adjustments required by the particular circumstances of each sector of the system ...
>
> "The Committee also examined resolution No. 2 of 20 December 1989 on the reinstatement of teaching personnel to whom Decree-Law No. 34/80 was applied. The Committee notes that workers dismissed from their posts for any of the activities listed in Decree-Law No. 34/80 cannot be reinstated until they have completed five years of disciplinary work, during which period they are to be barred from engaging in educational activities.
>
> "The Committee believes that the legislation in question is worded in such broad terms as to give rise to discriminatory practices against any worker involved in the education of young people, and that the penalties stipulated exclude them from their posts for too long a

period ... The Committee requests the Government to take the necessary steps to abrogate those legislative texts in the near future in accordance with article 3 (c) of the Convention." 13/

19. Contrary to what was established by the Committee of Experts, the practice of dismissal from the workplace, especially of professors, seems to have continued, as can be seen in the following cases communicated to the Special Rapporteur:

(a) Antonio Domínguez Dizat, a researcher at the Advanced Agricultural Institute in Ciego de Avila, was dismissed from his post on 3 August 1993 on grounds of political unreliability, for having expressed opinions in favour of political change and for continuing his friendship with two university professors who had also been dismissed from their posts for the same reasons in 1992.

(b) Marta Vidaurreta Lima, a professor at the Advanced Industrial Design Institute in Havana, was dismissed from her post in February 1994 pursuant to Decree-Law No. 34/80, after having delivered a letter to the Rector of the Institute expressing her opinions about the situation in the country and its impact on higher education, and especially about the application of ideological criteria when establishing the conditions for admission to the Institute, about the dismissal of professors and about the constant pressure exerted on students, again for ideological reasons.

(c) Miguel Angel Lorenzo Cepero, a researcher at the Provincial Sugar Cane Research Centre located near the Venezuela CA1, province of Ciego de Avila, was dismissed from his post in August 1993 for having sent a letter to President Fidel Castro criticizing the action of the management of his place of work and of the Communist Party.

B. Freedom to form and join trade unions

20. Since the publication of his previous report, the Special Rapporteur did not find any change for the better with regard to recognition of trade union rights. In general, there are serious restrictions on the right of workers to establish organizations that will promote and defend their interests and to have them recognized as legal persons and to be protected against discrimination aimed at undermining the freedom to form and join trade unions provided for in International Labour Organisation (ILO) Conventions Nos. 87 and 98. Despite repeated criticism by the bodies responsible for the implementation of ILO conventions, the Confederation of Cuban Workers continues to exercise a monopoly in that respect. As a result, the Special Rapporteur continued to receive information indicating that new trade unions, considered illegal by the authorities, were being established, with membership growing but that their members were being harassed.

21. Complaints were brought, for instance, in cases like that of Edith Lupe, a member of the Confederation of Democratic Workers in the Arroyo Naranjo district of Havana, who was summoned on 24 May 1994 by the State Security Department, where she was threatened with prosecution and with an "act of repudiation" if she continued her trade union activities. The same type of threats were made in the course of 1994 against Héctor Domínguez,

Jesús Benito Díaz, Fernando Mendoza, Martha Rosa Medina and Manuel Gallardo, also members of the Confederation in the San José de las Lajas district; Sara Franco Lemón and Rigoberto Correa Rodríguez, members of the executive board of the Confederation in Havana; and Ileana Estrugo Pomares and Lázaro Rodríguez Torres, both members of the Love and Peace Christian Movement, also in Havana. Lázaro Corp Yeras, General Secretary of the General Union of Cuban Workers and President of the National Commission of Independent Trade Unions (CONSI) was beaten in the street in the Playa district of Havana on 2 August 1994 by three individuals suspected of connections with security bodies; his 17-year-old son was also beaten in the same incident. Lázaro Cuesta, a member of CONSI, was beaten in a Havana street on 30 August 1994 by four individuals suspected of belonging to the security bodies.

22. In addition, Juan Guarino Martínez Guillén, President of the Confederation of Democratic Workers, was arrested early in May 1993 charged with incitement to crime as the organizer, according to police, of a peaceful demonstration that took place on 1 May. He was sentenced to one year of house arrest, with the sentence to be doubled and served in prison should he insist on pursuing his trade union activities. On 17 September 1993, he was again arrested and taken to the Taco-Taco prison in Pinar del Río, where in January 1994 he was allegedly beaten and then transferred to the Combinado del Este prison. He was released in May 1994, apparently because of serious health problems.

C. The "dangerous state" and security measures

23. As noted in earlier reports, article 72 of the Penal Code deals with the concept of the "dangerous state", which it defines as "a person's special proclivity to commit offences as demonstrated by conduct that is manifestly contrary to the norms of socialist morality". Article 74 provides that "'a dangerous state' exists when the subject displays any of the following indicators of 'dangerousness': (a) habitual inebriation and dipsomania; (b) drug addiction; (c) antisocial behaviour". Furthermore, "any person who, through antisocial behaviour, habitually transgresses the norms of social coexistence by committing acts of violence, or other acts of provocation, or who violates the rights of others, or whose general behaviour imperils the rules of coexistence or disturbs the order of the community, or who lives as a social parasite off the work of others or exploits or practices socially reprehensible vices, shall be considered to be in a dangerous state".

24. In addition, article 75 provides that "anyone who, while not falling under any of the dangerous states referred to in article 73, might develop a proclivity to commit offences, because of connections or relations with persons who are potentially dangerous to society, other persons, or the social, economic and political order of the socialist State, shall be given a warning by the competent police authorities to avert involvement in socially dangerous or criminal activities".

25. When a person displays any of the indicators of "dangerousness" referred to above, so-called security measures may be applied before or after a crime is committed. In the case of pre-crime measures, article 78 et seq. provide that anyone found to be in a "dangerous state" may be subject in the ensuing

proceedings to security measures involving therapy, re-education or surveillance by the National Revolutionary Police. Re-education measures are applied to antisocial individuals and consist of internment in a specialized labour or study institute and delivery to a labour collective for monitoring and modification of their behaviour. Surveillance by organs of the National Revolutionary Police, also applicable to antisocial individuals, involves modification and monitoring of the conduct of the subject in a "dangerous state" by their officials.

26. According to information received by the Special Rapporteur, Decree-Law No. 128 of 1991 establishes the procedure to be followed in the case of a finding of a pre-crime indicator of "dangerousness" involving antisocial behaviour and further provides that such an indicator shall be determined summarily. The National Revolutionary Police opens the case file with the report of the reporting officer, the testimony of persons in the neighbourhood of the domicile attesting to the "dangerous" conduct of the suspect, and any official warnings delivered. Once the file is completed, the police submit it to the judge of the district court, who decides whether to refer it to the People's Municipal Court, which has to decide within two working days of the date of receipt whether it contains an indicator of "dangerousness". Within those two days, the Court may authorize further inquiries or formalities, which the judge will be requested to complete within five working days. When the Court reviews the complete file, it will set the date of arraignment. The Court will issue its decision within 24 hours of the arraignment.

27. The reports received by the Special Rapporteur indicate that, during 1994 and the final months of 1993, the authorities frequently opened files on cases of "dangerousness" which subsequently led to incarceration of the persons in question in penal establishments for periods of up to four years (the Penal Code makes no specific mention of imprisonment as a possible security measure). The summary nature of the proceedings suggests, according to reports received, that the accused has scarcely any time to contact a lawyer of his choice or to prepare a defence. The increase in such cases over the reporting period might be due to an increase in acts of vandalism or social protest such as the distribution of pamphlets or the painting of anti-Government slogans on walls, not having an acceptable job, petty larceny, throwing stones at commercial establishments, etc. In may cases, groups of persons, not individuals, are arrested and subsequently tried, thus further reducing procedural safeguards.

28. The information received indicates that this legislation is used not only to control common crime, which may have increased owing to the economic crisis, but also against persons suspected of activities that contravene the official ideology. The criterion of "special proclivity" to commit offences is a subjective standard that frequently leads to the adoption of measures involving restrictions on the freedom of persons whose only proclivity is to hold views that differ from the official line.

29. In the final analysis, the very existence of a penal offence that means that a person may be punished without having committed any crime, the imprecision of the terms used in the Penal Code to describe the offence and

the consequent security measures, the summary nature of the procedure and the lack of safeguards it implies, as well as its use on the basis of political criteria, certainly give cause for concern from a human rights perspective.

30. The following are some of the individual cases reported to the Special Rapporteur:

(a) Héctor Eduardo Pedrera Miranda was arrested on 16 December 1993 on leaving his home in Alta Habana and taken to the district office of the National Revolutionary Police. On 23 September, he was brought to trial, during which the prosecutor stated that he had a police record because he left the country illegally (an offence for which he had already served time), thus demonstrating that he was hostile to the Revolution and "dangerous". It was also reported that defence counsel had no access to the accused's file and that he was allowed to speak with the accused only minutes before the trial. The accused was sentenced to four years' imprisonment.

(b) Mercedes Parada Antunes, a member of the Association for the Defence of Political Rights, was arrested on 26 September 1993, accused of "dangerousness". On 8 October 1993 a trial was held at the People's Municipal Court at Marianao, Havana, at which she was sentenced to two years' imprisonment.

(c) Benigno Torralba Sánchez, General Secretary of the Confederation of Democratic Workers in Arroyo Naranjo, Havana, was arrested at the end of 1993 and subsequently sentenced to four years' imprisonment for "dangerousness". He served the sentence in the Combinado del Este prison.

(d) Abel Jesús Acosta Ameneiro, a member of the Human Rights Party in Villa Clara, was arrested on 4 October 1993. At the trial, held on 6 October, he was sentenced to two years' imprisonment for "dangerousness" and taken to La Pendiente prison in Villa Clara. At the trial it was stated that the accused had met with "counterrevolutionary elements", possibly a reference to a meeting he had with a Canadian journalist.

(e) Rolando Cambra Gonzàlez, of the Cuban Human Rights Party, was arrested on 15 October 1993 in Havana and sentenced to four years' imprisonment for "dangerousness".

(f) Jorge Luis Domíniguez Riera, of the Cuban Human Rights Party, in Regla, was arrested on 15 October 1993 and taken to the Department of Technical Investigations in Havana for having participated in an anti-government demonstration. On 18 October he was sentenced to four years' imprisonment for "dangerousness".

D. Freedom of the press

31. Just as freedom of expression and freedom of association are sharply limited for ideological reasons and subject to strict control by the State machinery, the press suffers from similar restrictions. Article 53 of the Constitution recognizes freedom of speech and of the press, provided it is in keeping with the objectives of socialist society. The same article states that "material conditions for the exercise of that right are provided by the

fact that the press, radio, television, movies and other organs of the mass media are State or social property and can never be private property; this ensures their use at the exclusive service of the working people and in the interest of society".

32. As a result of this system, the major newspapers, such as Granma (the official organ of the Communist Party), Juventud Rebelde (the organ of the Union of Communist Youth) and Trabajadores (the organ of the Cuban Workers Confederation) reflect only the government viewpoint; they report only to a limited extent the discussions held in the high-level organs of government with power to decide issues of major interest to the citizens; and they emphasize the positive aspects of the news over the negative. It is obvious that this situation makes for poorly informed citizens and induces apathy towards the national communication media, while increasing interest in turning to foreign media to find out what is really happening in their own country. It is estimated that some 70 per cent of the population regularly listens to Radio Martí, a programme broadcast from the United States.

E. Right to leave and return to the country

33. The right to leave one's own country and return to it is not recognized in Cuban law, as previous reports have explained. This right is set forth in the Universal Declaration of Human Rights 14/ and in other international human rights instruments, but they do not, however, recognize the right to enter any specific country.

34. According to national legislation, in order to enter or to leave the country, Cuban citizens require a permit, which government authorities may issue or not at their discretion. While in recent years the requirements for obtaining an exit permit, whether temporary or permanent, have been simplified, the authorities may deny one at any time at their discretion and their decision is not subject to appeal through the courts. The Special Rapporteur received information in 1994, for example, about the cases of Raúl and Alejandro Roque González, former pilots in the Cuban Air Force, who served terms in prison for political reasons and were denied authorization to leave the country, although they had entry permits for the United States, where some members of their family reside. Others in a similar situation were Nancy Alemeida Fernández and her two sons, Jorge De Jesús and Luis Fidel Blardoni, who held entry visas for the United States, where they intended to rejoin their husband and father, a former captain in the Merchant Marine, who obtained asylum there in 1992. Gregorio Sáez Alvarez, once a political prisoner, and his family had their exit permit suspended without explanation after they had completed all the formalities, even to the point of surrendering their ration book and having their girls withdraw from school, as required. Isidro Tomás Sánchez Santos and his family were also denied their exit permit, even though they had had visas since December 1993 to enter the United States as refugees.

35. It is also quite common that, on political grounds, the authorities deny a temporary exit permit to persons who apply for one in order to attend events to which they have been invited.

36. For chiefly political reasons, but also, especially in recent years, for economic reasons, a large portion of the Cuban population has manifested a desire to leave their country to live elsewhere, preferably in the United States. Faced with this situation, in 1984 the two Governments concluded agreements on immigration, according to which the United States would issue a certain number of visas to Cubans annually to permit them to reside in that country. On the other hand, under United States Public Law No. 89-732 of 1966, referred to as the "Cuban Adjustment Act", the United States Government authorized Cubans who had entered the country to take up residence.

37. The difficulties involved in emigrating legally (both Governments have something to say about that) and the loophole opened up by the Cuban Adjustment Act have unleashed a steady stream of people, particularly in recent years, leaving Cuba and heading for the coast of the United States on any boat they can find and at the risk of their lives. Illegal exit, however, is defined as a crime by article 216 of the Cuban Penal Code, which provides that "a person who leaves or commits acts preparatory to leaving the national territory without complying with legal formalities shall be subject to imprisonment for from one to three years or a fine of three hundred to one thousand currency units". As a result, persons caught trying to leave the country illegally or committing acts preparatory to leaving are prosecuted and frequently sentenced to prison terms; they are stigmatized as "unreliable" in the workplace, and the physical means they were using to effect their departure (such as a vehicle for transport) are confiscated. In recent years, the penalties imposed seem to have been lighter than in the past and, in some cases, have not even involved imprisonment.

38. In his previous report, the Special Rapporteur cited estimates from non-governmental sources indicating that some 2,500 persons reached the United States coast in this way in 1992, and some 3,000 in 1993. A press release transmitted by the Permanent Mission of Cuba to the United Nations Office at Geneva dated 25 August 1994, containing a summarized version of the speech given by the President of the Republic on national radio and television, states that, in 1990, Cuba blocked the illegal exit of 1,593 persons, while the United States admitted 467; in 1991, it stopped 6,596 persons, while the United States admitted 1,997; and from January to August 1994, Cuba prevented the exit of 10,975 persons, while the United States admitted 4,092. These figures give an idea both of the increased number of exit attempts and of the number of persons who may have been penalized for it.

39. In this situation, there are two fundamental reasons for concern. One is the large number of people who are perishing at sea, given the conditions under which they attempt the crossing; on this there are no reliable statistics. Non-governmental sources gave the Special Rapporteur details on 40 persons who allegedly died in such circumstances in 1992, 57 in 1993 and 13 in the first four months of 1994. Another reason for concern is the attitude of the Cuban authorities when they catch people attempting to leave. A case recently reported involves José Inesio Pedraza Izquierdo, who was killed by frontier guards who opened fire in June 1994 as he attempted to leave the country through the port of La Fe in the municipality of Guane in Pinar del Rio province.

40. On 13 July 1994 the tugboat 13 de Marzo was shipwrecked as it headed for the United States coast carrying a large crowd of people, including children, who were attempting to leave Cuba. According to the above-mentioned press release from the Permanent Mission of Cuba, "in the investigation of the tragic shipwreck of the vessel, from which 31 persons were rescued, while 32 others drowned, it was determined that the authorities of the island bore no responsibility for the accident". However, the Special Rapporteur received testimony from some of the survivors indicating that government launches from the port of Havana tried to stop the 13 de Marzo with pressurized water jets and then deliberately rammed it, causing it to sink. Regrettably, this is no isolated incident. The Special Rapporteur has already made mention in previous reports of information received about incidents of excessive use of force on the part of coastguard patrols to prevent the departure of persons attempting to leave the country, resulting in deaths on a number of occasions. This tends to contradict the argument of the Cuban Government that it seeks to prevent these departures because of the risk to life that they entail, and in the case of the tugboat 13 de Marzo, the response was disproportionate, even given the fact that the boat was stolen.

41. In the weeks following the incident just described, the number of persons attempting to leave the country for the United States increased dramatically, so that early in August the Cuban Government declared that from then on it would not try to prevent such departures. From a human rights standpoint, the decision can only be viewed as a positive step. Nevertheless, it was dictated more by political expediency than humanitarian motives and was not accompanied by a change in the laws to decriminalize illegal exit. This was borne out by the fact that, after new immigration agreements were concluded with the United States early in September 1994, the ban on leaving the country reverted to the status that prevailed prior to the crisis - a crisis that led to the exodus of some 32,000 people, most of whom are at Guantanamo and other United States military bases in a precarious situation from the point of view of the law and living conditions.

42. The Special Rapporteur was also informed that, at the time of the August exodus, some members of opposition groups were subjected to pressure by government agents for the specific purpose of getting them to leave the country. In addition, the Special Rapporteur received a partial list which contained the names of 31 members of different human rights organizations and opposition groups who were at the Guantanamo naval base and who were asking to be granted refugee status by the United States.

43. It is not the business of the Special Rapporteur to take a position on the phenomenon of departure by sea and the consequences for those who attempt it. It is his responsibility, however, to deplore the excessive use of force on the part of officials charged with preventing such departures and to deplore the prosecution and punishment of those who exercise their internationally recognized right to leave their own country.

III. CONDITIONS IN THE PRISONS

44. The information received by the Special Rapporteur does not indicate any improvement in the food, sanitary and medical conditions, inter alia, described in previous reports of the Special Rapporteur and which continue to

give cause for concern. The following is an excerpt from a letter sent recently by a prisoner to the Special Rapporteur: "Over 5,000 prisoners are crowded into Combinado del Este, which has a maximum capacity of about 3,000. Some sleep on the floor and the great majority on thin straw mattresses without sheets or pillowcases. The lack of hygiene, compounded by official laziness and neglect, and of proper products and equipment for general sanitation, adversely affect and constantly endanger the health of prisoners, who appeal in desperation to their relatives for medicine that is not available in the prison medicine chest. Exactly the same conditions prevail in Guanajay prison, which keeps over 700 prisoners in buildings intended for a maximum of 400. In both prisons, which are infested with cockroaches, flies and rats, the prison population is exposed to infectious diseases and defenceless owing to inadequate or non-existent medical facilities. A proportion of the inmates of both prisons are suffering from scabies, tuberculosis and other illnesses. One of the methods used in the distribution of the scarce and very poor food rations is the crushing of whole fish, forcing the prisoners to swallow bones and scales".

45. Another report received by the Special Rapporteur on Combinado Sur de Matanzas prison states that soap, toothpaste and razor blades have not been distributed for over five months. Scabies has broken out in all parts of the prison, which has room for 500 prisoners, but now houses 1,200. The infirmary is in very poor condition and hygiene and medical attention are lacking. Three persons recently died as a result of negligence in the provision of medical attention.

46. The cases of Sebastián Arcos Bergnes, held in Ariza prison; Joel Dueñas Martínez, held in Kilo 5, Pinar del Río; Rubén Hoyos Ruiz, held in Alambrada de Manacas prison, Villa Clara; William Pérdomo Santiesteban, held in Ganuza, Havana; Mario Pérez Blanco, held in Ganuza; Pablo Reyes Martínez, held in Quivicán; Alberto Valdés Fernández, held in Nueva Blanca, Havana; and Mario Viera González, held in Canaleta (Ciego de Avila) are among the communications referred to the Special Rapporteur because those prisoners were denied medical assistance when the seriousness of their condition required it.

47. There seems to have been no improvement either in the treatment of prisoners by prison staff or in the authorities' attitude to the punishment of officials for excessive use of force. A report received by the Special Rapporteur on conditions in the provincial prison of Ciego de Avila contains the following passage: "There are constant and repeated inspections, extreme measures are taken by the prison security officials to ensure that not a single report on what is happening reaches the outside world, the prisoners are strip-searched twice before receiving a visit and they can only see their relatives across a table while a guard keeps watch over their movements. Their relatives are also subjected to humiliating and degrading searches; beatings and canings are a daily routine". The following are some of the incidents reported: Roberto Abrós, a prisoner in Quivicán, was beaten on 16 August 1993 for going on a hunger strike and sustained a head wound and a broken arm. Lázaro López Rodríguez, held in Combinado del Este, was severely beaten on 19 September 1993 for refusing to wear an over-sized uniform. Mantel Ruiz Fail, held in the provincial prison of Ciego de Avila, died on 12 March 1994, allegedly as a result of a beating by two guards who chained him to the bars of a cell. Elvis Mantel Suárez Armenteros, held in Combinado

del Este, was severely beaten on 4 July 1993 for insisting on medical treatment for a severe earache that he had been suffering for days. Arturo Suárez Ramos has allegedly spent the last two years in punishment cells, first in Boniato prison (Santiago de Cuba) and now in Combinado Sur de Matanzas prison, where he is subjected to frequent beatings and other abuses. Luis Fuentes Valdés, who is serving a sentence for the crime of enemy propaganda, was allegedly put into a punishment cell in section 3 of Cinco y Medio prison in Pinar del Río on 5 April 1994 because of a hunger strike he started that day, and was kept there for several months. José Ramón Rodríguez Benítez, who was also serving a sentence for enemy propaganda, has allegedly been held incommunicado in the same section since August 1992.

IV. CONSIDERATIONS CONCERNING THE ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

48. The Cuban economy has suffered a complete breakdown in the past four years, with disastrous consequences for the well-being of the population. Negative economic growth has been recorded each year since 1990 and the sugar industry, the mainstay of the national economy, is running at 50 per cent of its capacity at the beginning of the decade. Heavily dependent on oil to meet their energy requirements, the greater part of the industrial, agricultural and transportation sectors and indeed everyday life have been paralysed by the sizeable reduction in oil imports. There are prolonged and frequently unpredictable power cuts and particularly severe transportation difficulties, so that in some cases people have to walk or cycle considerable distances to reach their workplace.

49. Although in recent decades the Cuban Government has sought to create conditions in which the majority of the population can enjoy the economic and social rights guaranteed in the Universal Declaration and other human rights instruments, those rights are today in serious jeopardy. Patients may see a doctor or surgeon when necessary, but they have great difficulty in obtaining prescribed drugs, even for extremely minor ailments. Students still have access to free education at all levels but the quality and availability of textbooks and school equipment have deteriorated sharply. Many companies have been forced to close down for lack of supplies, creating what amounts to unemployment, although the workers continue to receive a portion of their wages.

50. With regard to food, although the Government theoretically guarantees a minimum to every citizen through the ration book, the commodities available in this way are far from sufficient and sometimes of dubious quality, so that ordinary people have to satisfy their basic needs and those of their families, and not only for food, by going against the law and turning to the parallel market. Although they are for the most part law-abiding citizens, they suddenly find themselves breaking the law, with the attendant individual and social implications.

51. According to data provided by the Cuban authorities to the European Union, per capita daily caloric consumption amounted in 1993 to only 1,780, a drop of 1,065 from 1989 and of 770 even from 1960, compared with an ideal consumption of over 3,000 calories. Between 1989 and 1992, the output of 11 of the 15 main agricultural products fell dramatically: production of

poultry declined by 77 per cent and that of pigs by 69 per cent. A similar decline was recorded in the output of processed food: the volume of powdered milk produced stood at only one tenth of its 1989 level. Schools, and not all of them, provide a glass of milk to children only up to the age of 8 years now, compared with 16 previously. 15/

52. According to analysts of conditions in Cuba, the Government bears a large share of the responsibility for this situation. Official estimates show that the Cuban economy ceased to grow in the mid-1980s. There were various factors involved but one of them seems to be related, in the case of the food sector, to the so-called correction campaign launched in 1986, which prohibited farmers from selling their produce in the free market and prevented the population from engaging in economic activities that would have helped to meet its basic needs. Other factors to which analysts attribute the Cuban economic situation have been the virtually total absence of small-scale enterprises in the private sector; centralized planning at any price entirely unrelated to market forces; excessively centralized control of decision-making governing the appropriation of resources and lack of a rational economic price structure.

53. The international community also has some responsibility to bear, on the one hand for cutting off the extensive aid flows from the former socialist bloc and, on the other, for the United States decision not only to maintain the embargo imposed in the 1960s but also to prohibit subsidiaries of their companies established in third countries from trading with Cuba. This has raised new obstacles to Cuba's economic relations with other countries and ultimately increases costs, so that the transition to a more open economy becomes more difficult.

54. The Cuban Government has begun to take tentative steps to remedy the situation. For example, some forms of self-employment have been legalized, although the establishment of small businesses that would have to hire workers to enhance productivity is still prohibited. State farms have been converted into what may be described as agricultural cooperatives; however, they are still subject to regulations that prevent them from operating as genuinely independent economic entities. Facilities for foreign investment have reactivated certain sectors of the economy, but the uncertainty surrounding the country's political future has led investors to demand unreasonable advantages as a precondition for investment. It is also a very positive sign that measures were adopted in October 1994 for the establishment of an agricultural market which is governed by the laws of supply and demand and where citizens may freely buy certain foods without restrictions and in the national currency. Although the prices of the products offered on this market continue to be excessively high for the majority of the population, its existence reduces the importance of the black market and removes the element of unlawfulness that characterizes it. The same is true of industrial markets, which began to make their appearance in December 1994.

55. To prevent the situation from deteriorating even further, with the resulting erosion of economic and social rights, the Government should allow Cuban citizens to operate freely as economic agents by removing existing barriers to the establishment of private businesses in all branches of economic activity, the free hiring of labour and, finally, the organization of independent trade unions.

V. CONCLUSIONS AND RECOMMENDATIONS

56. The Special Rapporteur has observed that, throughout 1994, the human rights situation in Cuba has not changed significantly as compared with the previous two years; it has been the subject of reports by the Special Rapporteur to the General Assembly and the Commission on Human Rights and continues to be a matter of concern.

57. The underlying causes are, above all, institutional and of internal origin. On the one hand, the persistence of political repression, while giving rise to tragic situations at the individual and collective levels, impedes the search for solutions to the problems of a society in serious crisis from various points of view. In the economic sphere, the policies carried out for years, in conjunction with more recent phenomena beyond government control, such as the loss of markets and worsening of the terms of trade, have in recent years plunged the country into a state of paralysis and chaos, with the result that the population can no longer be fed adequately, while the level of production and distribution of basic commodities and traditional exports has dropped precipitously. In these circumstances, it is absolutely necessary to put in place fundamental economic reforms so as to avoid a further worsening of the situation. If the present system is maintained without major changes, which is a possibility, the result would, in the best case, be an impoverishment that would nullify and dismantle many, if not all, of the advances which Cuban society has made over the past 35 years. In addition, that would entail a strong risk of social protest and new waves of people trying to leave the country by sea. The measures taken so far with regard to the functioning of the domestic economy aim in the right direction in that they introduce a measure of flexibility and opportunities for private initiative; however, they are still too modest and insufficient.

58. While the economic shortcomings do not necessarily constitute human rights violations, the Special Rapporteur believes that they are an important element in explaining the context in which such violations occur. Furthermore, these deficiencies are an obstacle to any reform aimed at eliminating, or at least mitigating, human rights violations.

59. An orderly programme of economic and political reforms would be greatly facilitated if Cuba's current isolation from neighbouring countries came to an end. The prolonged economic, trade and financial embargoes imposed by the United States have, over the years, had an adverse impact on the country's political climate and economic reality. They are now an obstacle to the necessary opening up of a system shaped and justified to a large extent by a perceived need to withstand external pressures and hostile acts which threaten national sovereignty. The blockade reaffirms the political aims of government

sectors which fear any attempt to introduce flexibility into their control over society; more importantly, it discourages Cubans who desire to work for a better future. A feeling of profound resignation is probably the dominant mood among the general population, but there is also fear of alternative policies represented by hard-line, politically influential Cuban-American groups. These fears do not help to foster a resolve to effect changes, whether through protests or a commitment to participate in the building of a different society.

60. The Government of Cuba should institute a serious and fruitful dialogue with all sectors of society, including the internal opposition, without dismissing the opinions of Cubans resident abroad. This dialogue is absolutely essential and should have as its aim facilitating a peaceful transition to a pluralistic society in which all Cubans have a place. In this connection, official initiatives, such as the holding in Havana in April 1994 of the Conference on the Nation and Emigration, in which a large number of Cubans resident abroad participated, are positive, but vastly inadequate. So, too, was the meeting held in Madrid in September 1994 by Minister for Foreign Affairs Roberto Robaina and representatives of some sectors of the opposition, also resident abroad. However, it is to be hoped that such initiatives will continue and yield results, and that the dialogue begun in September 1994 by the Governments of Cuba and the United States with a view to resolving emigration issues will be continued and extended to other spheres.

61. The Government of Cuba should recognize the right of political parties and non-governmental organizations, apart from those established on the basis of centralist criteria in line with the official ideology, to function legally in the country. The freedoms of expression, information and assembly and the freedom to demonstrate peacefully should also be fully recognized, and all prisoners of conscience should be released immediately, thus enabling those who wish to do so to continue living in the country. The practice of releasing some of these prisoners as a result of intercession by foreign institutions or Governments is certainly positive. It is not such a positive sign, however, that, in order to gain freedom, these persons are obliged to leave the country and are subjected to pressure while they are in prison to accept this condition.

62. Moreover, it is also incumbent upon the international community, which has already expressed its rejection of some aspects of the United States embargo through resolutions of the United Nations General Assembly, to provide all possible support for the establishment of a process of peaceful political transition in Cuba, to ensure that adequate humanitarian assistance is provided to the Cuban population in need, and to facilitate multilateral and bilateral technical and financial cooperation with Cuba which can enable its Government and people on a consensual basis to undertake the political and economic reforms which are urgently called for by the current situation.

63. Of course, the international community should also continue to monitor the development of the human rights situation in Cuba, since, to the extent that that situation improves, the unambiguous political will of the Government to advance significantly along the path of reform will be demonstrated.

In this connection, the Government's decision to invite the High Commissioner for Human Rights to visit the country was extremely positive; the visit took place from 16 to 18 November 1994. It should, however, be regarded as a point of departure for full - and not merely superficial - cooperation by the Government of Cuba with all mechanisms of the Commission on Human Rights, including the Special Rapporteur, in particular by giving them the opportunity to visit the country. It would also be extremely positive if the Government considered the possibility of requesting the Centre for Human Rights to establish a programme of advisory services and technical assistance whose terms of reference would be decided jointly once needs and priorities had been evaluated.

64. The Special Rapporteur makes the following additional recommendations to the Government.

(a) Cease persecuting and punishing citizens for reasons relating to freedom of peaceful expression and association;

(b) Adopt measures to release unconditionally all persons serving sentences for offences against State security and other related offences and for trying to leave the country unlawfully;

(c) Permit the legalization of independent groups, especially those seeking to carry out trade union, political or human rights activities and allow them to act within the law, but without undue interference by the authorities;

(d) Ratify the main human rights instruments to which Cuba is not a party, in particular, the International Covenant on Civil and Political Rights and its two Optional Protocols (the first on individual communications and the second designed to abolish the death penalty), as well as the International Covenant on Economic, Social and Cultural Rights; 16/

(e) Eliminate from criminal legislation and characterization of offences in connection with which citizens may be prosecuted for exercising their right to freedom of expression and association, such as enemy propaganda, unlawful association, possession of illegal printed matter, etc.;

(f) Review in depth the legal provisions relating to the concept of "dangerous State" and the relevant security measures with a view to eliminating at least all those aspects liable to infringe individual rights and freedom;

(g) Repeal all those legal provisions which imply discrimination between citizens on political grounds, in particular, in the employment and education sectors, and adopt measures designed to redress as far as possible abuses committed in this area in the past, for example, by reinstating in their former posts persons who have been dismissed;

(h) Repeal legal provisions which prevent Cuban citizens from exercising their right freely to enter or leave the country. Persons of Cuban origin living abroad should enjoy this right once they have met the minimal administrative requirements;

(i) Ensure respect for the guarantees of due process, in accordance with the provisions of international instruments, adopting, in particular, the measures necessary to facilitate free and effective access to legal assistance for all persons put on trial. Such assistance should be provided by lawyers exercising their profession totally independently;

(j) Implement measures for greater transparency and guarantees in the prison system so as to prevent excessive violence and physical and psychological suffering by the prison population. In this connection, it would be a major achievement to renew the agreement with the International Committee of the Red Cross and to allow access to prisons by non-governmental organizations with humanitarian objectives;

(k) Allow international non-governmental human rights organizations to enter the country so that they can evaluate the human rights situation and offer their competence and cooperation with a view to securing improvements.

Notes

1/ See Official Records of the Economic and Social Council, 1994, Supplement No. 4 (E/1994/24), chap. II, sect. A.

2/ Ibid., 1992, Supplement No. 2 (E/1992/22), chap. II, sect. A.

3/ E/CN.4/1994/51, paras. 9 to 15.

4/ Throughout this report, the names of some of these groups and their posts have been given as transmitted to the Special Rapporteur by non-governmental sources.

5/ See chap. IV above.

6/ E/CN.4/1994/51, para. 32.

7/ Case referred to in E/CN.4/1994/51, para. 28.

8/ Ibid., para. 40.

9/ Ibid., para. 28.

10/ El País, 24 September 1994.

11/ Other attacks against this family are mentioned in document E/CN.4/1994/51, para. 26.

12 E/CN.4/1993/39, para. 54.

13/ International Labour Conference, eighty-first session, 1994, Report III (Part 4A), Report of the Committee of Experts on the Application of Conventions and Recommendations (Geneva, 1994), para. 4.

14/ General Assembly resolution 217 (A) (III).

15/ "Cuba pide auxilio a Europa para evitar el colapso sanitario", El País, 1 May 1994, pp. 10 and 11.

16/ General Assembly resolution 2200 A (XXI), annex.